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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventor(s): Gluckman et al.

Appln. No.: 09/910,461

Confirm. No.: 2772

Filed: July 20, 2001

Patent No: 6,780,848 B2

Issued: August 24, 2004

Title: USE OF GPE TO PROTECT GLIAL CELLS OR
NON-DOPAMINERGIC CELLS FROM DEATH
FROM NEURAL INJURY OR DISEASE

PATENT APPLICATION

Art Unit:

Examiner:

Customer No. 23910

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited in the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on September 1, 2004.

(Attorney Signature)

D. Benjamin Borson, Ph.D., Reg. No. 42,349

Signature Date: September 1, 2004

APPLICATION FOR PATENT TERM ADJUSTMENT

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

This APPLICATION FOR PATENT TERM ADJUSTMENT is being filed under 37 C.F.R. 1.705(d) in response to an Issue Notification and a PAIR report accessed August, 2004.

This APPLICATION is being filed within two months of the Issue date of August 24, 2004. A petition fee under 1.18(e) accompanies this APPLICATION.

The correct patent term adjustment should be 128 days under 37 C.F.R. 1.705(b). The PAIR report indicated a total PTO delay of 154 days, and a total Applicant delay of 133 days. In particular, the PAIR report indicated an entry on May 10, 2004 for a "Miscellaneous Incoming Letter" and indicated 107 days of Applicants' failure to engage in reasonable efforts. Applicants note that the "Miscellaneous Incoming Letter" accompanied the Issue Fee, which was paid May 10, 2004. Two documents accompanied the Issue Fee

09/09/2004 EABUBAK2 00000025 09910461

01 FC:1455

200.00 OP

- 1 -

Attorney Docket No.: NRNZ 1002 US4 DBB
dbb/NRNZ/1002 US4.012.Petition for PTA.wpd

200.001:080103
09/01/04-10:04

Transmittal. One was a Notice Regarding Entity Status of Applicant, affirming that the Applicant was a Small Entity entitled to reduced fees, and the other document was a Comments to Reasons for Allowance.

Applicants refer to USPTO guidelines on interpretation of 37 C.F.R. 1.704(c) dated May 29, 2001, which states:

Accordingly, the Office is publishing this notice to provide guidance in interpreting the provisions of 37 C.F.R. 1.704(c) (10) to clarify that submission of certain papers after a "Notice of Allowance," which do not cause substantial interference and delay in the patent issue process, are not considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application. The following are examples of such papers: **(1) Issue Fee Transmittal (PTOL-85B),... (5) Change of Status (small/not small entity status), (6) a Response to the examiner's reasons for allowance,** and ... Therefore, the submission of these papers after a Notice of Allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and would not result in reduction of a patent term adjustment pursuant to 37 C.F.R. 1.704(c)(10). Emphasis added.

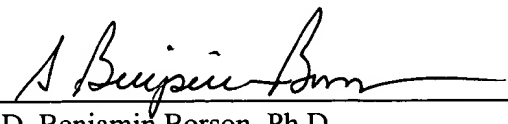
In particular, the "Miscellaneous Incoming Letter" was (1), (5), and (6) as above, all of which are specifically excluded and cannot be used to reduce the patent term extension. With the adjustment sought, the Applicants' delay will be 26 days, and the total PTA will be 128 days.

Accompanying this APPLICATION are the Fee for Application for Patent Term Extension, Appendix 1, a copy of the Issue Fee Transmittal form and Part B - Fee Transmittal, Appendix 2, a copy of a NOTICE REGARDING ENTITY STATUS OF APPLICANT, Appendix 3, a copy of COMMENTS IN REPLY TO REASONS FOR ALLOWANCE, and Appendix 4, a copy of the PAIR report.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 06-1325 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

Date: September 1, 2004

By: 
D. Benjamin Borson, Ph.D.
Reg. No. 42,349

FLIESLER MEYER LLP
Four Embarcadero Center, Fourth Floor
San Francisco, California 94111-4156
Telephone: (415) 362-3800

Appendix 1

Copy of Issue Fee Transmittal form and Part B - Fee Transmittal



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

| | | | |
|---|----------------------|------------------------|---------------|
| TRANSMITTAL FORM (to be used for all correspondence after initial filing) | Application Number | 09/910,461 | |
| | Filing Date | 7/20/2001 | |
| | First Named Inventor | Peter David Gluckman | |
| | Art Unit | 1639 | |
| | Examiner Name | Bennett M. Celsa | |
| Total Number of Pages in This Submission | 4 | Attorney Docket Number | NRNZ-01002US4 |

| ENCLOSURES (Check all that apply) | | |
|---|--|---|
| <input checked="" type="checkbox"/> Issue Fee Transmittal <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ | <input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): 1. Statement Regarding Entity Status and 2. Comments In Reply to Reasons for Allowance |
| Remarks | | |

| SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT | | |
|--|--|------------------------|
| Firm or Individual name | D. Benjamin Borson Fliesler Meyer LLP | Customer Number: 23910 |
| Signature | <i>D. Benjamin Borson</i> | Reg. No.: 42,349 |
| Date | May 10, 2004 | |

| CERTIFICATE OF TRANSMISSION/MAILING | | |
|---|---------------------------|----------------------|
| I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below. | | |
| Typed or printed name | D. Benjamin Borson | |
| Signature | <i>D. Benjamin Borson</i> | Date May 10, 2004 |

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail

Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (703) 746-4000

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)

23910 7590 04/07/2004

FLIESLER MEYER, LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO, CA 94111

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO, on the date indicated below.

| | |
|---------------------------|--------------------|
| D. Benjamin Borson | (Depositor's name) |
| <i>D. Benjamin Borson</i> | (Signature) |
| May 10, 2004 | (Date) |

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/910,461 | 07/20/2001 | Peter D. Gluckman | 37522-1002C1 | 2772 |

TITLE OF INVENTION: USE OF GPE TO PROTECT GLIAL CELLS OR NON-DOPAMINERGIC CELLS FROM DEATH FROM NEURAL INJURY OR DISEASE

| APPLN. TYPE | SMALL ENTITY | ISSUE FEE | PUBLICATION FEE | TOTAL FEE(S) DUE | DATE DUE |
|-------------|--------------|-----------|-----------------|------------------|----------|
|-------------|--------------|-----------|-----------------|------------------|----------|

nonprovisional NO \$1330 \$300 \$1630 07/07/2004

| EXAMINER | ART UNIT | CLASS-SUBCLASS |
|-------------------|----------|----------------|
| CELSEA, BENNETT M | 1639 | 514-018000 |

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1. Fliesler Meyer LLP

2. _____

3. _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

NeuronZ, Ltd.

Auckland, New Zealand

Please check the appropriate assignee category or categories (will not be printed on the patent); ☐ individual ☒ corporation or other private group entity ☐ government

4a. The following fee(s) are enclosed:

- ☒ Issue Fee
- ☒ Publication Fee
- ☒ Advance Order - # of Copies 5

4b. Payment of Fee(s): \$980

- ☐ A check in the amount of the fee(s) is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☒ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number 061325 (enclose an extra copy of this form).

Director for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

D. Benjamin Borson, Reg. No. 42,349

(Authorized Signature)

(Date)

D. Benjamin Borson May 10, 2004

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMIT THIS FORM WITH FEE(S)

Appendix 2

Copy of NOTICE REGARDING ENTITY STATUS OF APPLICANT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventor(s): Peter D. Gluckman

Application No.: 09/910,461

Confirm. No.: 2772

Filed: July 20, 2001

Title: USE OF GPE TO PROTECT GLIAL CELLS
OR NON-DOPAMINERGIC CELLS FROM
DEATH FROM NEURAL INJURY OR
DISEASE

PATENT APPLICATION

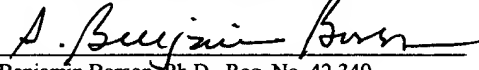
Art Unit: 1639

Examiner: Bennett M. Celsa

Customer No. 23910

CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being transmitted by facsimile to the
Commissioner for Patents, the United States Patent and Trademark Office, ISSUE FEE
Division (703) 746-4000, on May 10, 2004.


D. Benjamin Borson, Ph.D., Reg. No. 42,349
Signature Date: May 10, 2004

NOTICE REGARDING ENTITY STATUS OF APPLICANT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

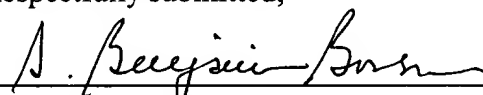
Sir:

Please note that applicant is a small entity and is therefore paying the issue fee for a small entity of
\$665.00 authorized for payment through deposit account no. 06-1325.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit
Account No. 06-1325 for any matter in connection with this response, including any fee for extension of time,
which may be required.

Respectfully submitted,

Date: May 10, 2004

By: 
D. Benjamin Borson, Ph.D.
Reg. No. 42,349

FLIESLER MEYER LLP
Four Embarcadero Center, Fourth Floor
San Francisco, California 94111-4156
Telephone: (415) 362-3800

Appendix 3

Copy of COMMENTS IN REPLY TO REASONS FOR ALLOWANCE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventor(s): Peter D. Gluckman

Application No.: 09/910,461

Confirm. No.: 2772

Filed: July 20, 2001

Title: USE OF GPE TO PROTECT GLIAL CELLS OR
NON-DOPAMINERGIC CELLS FROM DEATH
FROM NEURAL INJURY OR DISEASE

PATENT APPLICATION

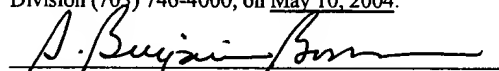
Art Unit: 1639

Examiner: Bennett M. Celsa

Customer No. 23910

CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being transmitted by facsimile to the
Commissioner for Patents, the United States Patent and Trademark Office, ISSUE FEE
Division (703) 746-4000, on May 10, 2004.



D. Benjamin Borson, Ph.D., Reg. No. 42,349

Signature Date: May 10, 2004, 2004

COMMENTS IN REPLY TO REASONS FOR ALLOWANCE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

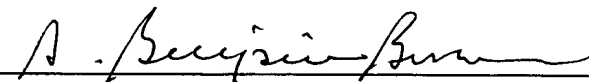
Sir:

This response is in reply to the Reasons of Allowance by the Examiner mailed with the Notice of Allowance dated April 7, 2004.

Applicants would like to clarify that the "Sarah" reference cited in the Reasons for Allowance is European Patent Application EP 0 366 638, listing Vicki Rubian Sara as Inventor. Further, none of the art of record anticipates any claim, either expressly or inherently, or renders any claim obvious, either alone or in combination.

Respectfully submitted,

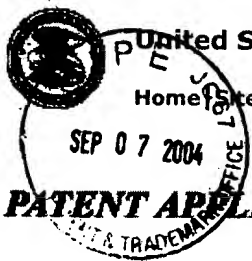
Date: May 10, 2004

By: 
D. Benjamin Borson, Ph.D.
Reg. No. 42,349

FLIESLER MEYER LLP
Four Embarcadero Center, Fourth Floor
San Francisco, California 94111-4156
Telephone: (415) 362-3800

Appendix 4

Copy of the PAIR report.

**PATENT APPLICATION INFORMATION RETRIEVAL****Patent Term Adjustment (PTA) for publication number: 09/910,461**

| | | | Days |
|------------------------------|------------|-----------------------------|--------|
| Filing or 371(c) Date: | 07-20-2001 | USPTO Delay (PTO): | 154 ✓ |
| Issue Date of Patent: | - | Three Years: | - |
| Pre-Issue Petitions (days): | +0 | Applicant Delay (APPL): | 133 24 |
| Post-Issue Petitions (days): | +0 | Total PTA: | 21 128 |
| USPTO Adjustment (days): | +0 | Explanation of Calculations | |

Search Options

| |
|---------------------|
| Assignments |
| Continuity Data |
| Foreign Priority |
| Image File Wrapper |
| File History |
| Published Documents |

Patent Term Adjustment History

| Date | Contents Description | PTO (days) | APPL (days) |
|------------|--|---------------|----------------|
| 08-04-2004 | PTA 36 Months | ↑ | |
| 08-24-2004 | Patent Issue Date Used in PTA Calculation | ↑ | |
| 07-22-2004 | Dispatch to FDC | ↑ | |
| 07-22-2004 | Application Is Considered Ready for Issue | ↑ | |
| 07-20-2001 | Workflow - Drawings Finished | ↑ | |
| 05-10-2004 | Mailroom Date of Issue Fee Payment | ↑ | |
| 05-10-2004 | Applicant Has Filed a Verified Statement of Small Entity Status in Compliance with 37 CFR 1.27 | ↑ | |
| 05-10-2004 | Miscellaneous Incoming Letter | ↑ | 107 |
| 07-06-2004 | Receipt into Pubs | ↑ | |
| 06-15-2004 | Workflow - Query Request - Finish | ↑ | |
| 05-27-2004 | Mail Acknowledgement of Priority Papers | ↑ | |
| 05-27-2004 | Acknowledgement of Priority Papers | ↑ | |
| 05-25-2004 | Workflow - Query Request - Begin | ↑ | |
| 05-10-2004 | Issue Fee Payment Recorded | ↑ | |
| 04-27-2004 | Workflow - File Sent to Contractor | ↑ | |
| 04-07-2004 | Mail Notice of Allowance | ↑ | |
| 04-02-2004 | Issue Revision Completed | ↑ | |
| 04-02-2004 | Notice of Allowance Data Verification Completed | ↑ | |
| 04-02-2004 | Notice of Allowability | ↑ | |
| 04-02-2004 | Date Forwarded to Examiner | ↑ | |
| 12-16-2003 | Amendment after Final Rejection | ↑ | |
| 10-16-2003 | Mail Final Rejection (PTOL - 326) | ↑ | |
| 10-16-2003 | Final Rejection | ↑ | |
| 08-12-2003 | Date Forwarded to Examiner | ↑ | |

| | | | |
|------------|--|------|------|
| 08-05-2003 | Response after Non-Final Action | ↑ | v 26 |
| 08-01-2003 | Mail Notice of Informal or Non-Responsive Amendment | ↑ | ↑ |
| 07-16-2003 | Date Forwarded to Examiner | ↑ | ↑ |
| 07-10-2003 | Informal or Non-Responsive Amendment after Examiner Action | ↑ | ↑ |
| 07-10-2003 | Response after Non-Final Action | ↑ | |
| 04-16-2003 | Mail Non-Final Rejection | ↑ | |
| 04-16-2003 | Non-Final Rejection | ↑ | |
| 03-19-2003 | Date Forwarded to Examiner | ↑ | |
| 03-13-2003 | Response to Election / Restriction Filed | ↑ | |
| 02-21-2003 | Mail Restriction Requirement | √154 | |
| 02-20-2003 | Requirement for Restriction / Election | ↑ | |
| 09-16-2002 | Preliminary Amendment | ↑ | |
| 10-04-2002 | Case Docketed to Examiner in GAU | ↑ | |
| 09-10-2002 | Information Disclosure Statement (IDS) Filed | ↑ | |
| 09-20-2001 | An assertion that the nature of the legal entities having property rights to the patent authorizes t | ↑ | |
| 11-01-2001 | Case Docketed to Examiner in GAU | ↑ | |
| 09-20-2001 | Information Disclosure Statement (IDS) Filed | ↑ | |
| 09-06-2001 | Information Disclosure Statement (IDS) Filed | ↑ | |
| 09-06-2001 | Preliminary Amendment | ↑ | |
| 10-29-2001 | Application Dispatched from OIPE | ↑ | |
| 10-25-2001 | Application Is Now Complete | ↑ | |
| 08-15-2001 | Notice Mailed--Application Incomplete--Filing Date Assigned | ↑ | |
| 08-15-2001 | Correspondence Address Change | ↑ | |
| 08-01-2001 | IFW Scan & PACR Auto Security Review | ↑ | |
| 07-20-2001 | Initial Exam Team nn | ↑ | |